IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1281 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BANASKANTHA MEHSANA RURAL BANK

Versus

RENDRAKUMAR M PATEL

Appearance:

1. Special Civil Application No. 1281 of 1995

MR NK MAJMUDAR for Petitioner No. 1

MR RC PATHAK for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 19/08/2004

ORAL JUDGEMENT

1. The petitioner has challenged the decision of the Industrial Court, Ahmedabad in Review Application [ITC]

No. 1 of 1994 dated 30th November 1994 in Reference [ITC] No. 83 of 1990, whereby the Industrial Court has entertained the Review Application filed by the employee and clarified that the employee should be restored to his original position as Messenger and should also grant backwages.

2. Mr. B.D. Suthar, learned advocate for the petitioner submitted that the Industrial Court committed an error inasmuch as once the High Court has dismissed the petition confirming the order of the Industrial Court being SCA No. 9370 of 1993, the Industrial Court could not have entertained the Review Application in the matter which was confirmed by the High Court. If at all any grievance was there, the workman has to raise another industrial dispute or has to file appropriate proceedings but the Industrial Court cannot entertain Review Application after the matter is finalized by the High Court.

3. The contention raised by the petitioner is required to be accepted inasmuch once the judgment and award of the Industrial Court has confirmed by the High Court under Article 227 of the Constitution, the Tribunal has become functus officio and cannot entertain any application in the matter which is decided by the Industrial Court, since order of Industrial Court has merged in the order passed by the High Court. Any Review Application after High Court's order is not competent. It is made clear that I have not decided the matter on merits and for that purpose the respondent workman is required to approach the competent authority / competent Court and if the respondent workman approaches the competent authority / competent court shall decide the same in accordance with law.

4. At the same time, it is observed that the petitioner Bank will make all efforts not to relegate the respondent employee to unnecessary litigation and shall try to implement the impugned award of the Industrial Tribunal in its true spirit.

5. Rule is discharged. No order as to costs.

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